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FISCAL IMPACT REPORT

SPONSOR Moore DATE TYPED 2/1/05 HB 315
 SHORT TITLE Social Worker Licenses and Requirements SB _____
 ANALYST McSherry

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
NFI	NFI	Indeterminate	Recurring	Social Work Examiners Fund

(Parenthesis () Indicate Revenue Decreases)

House Bill 315 relates to House Bill 306, which will extend the life of the Social Work Examiners Board.

SOURCES OF INFORMATION

LFC Files
 Children, Youth and Families Department (CYFD)
 Regulations and Licensing Department (RLD)
 Human Services Department (HSD)

SUMMARY

Synopsis of Bill

House Bill 315 proposes amendments to the Social Work Practice Act, Section 61-31-31, NMSA 1978, and extends the sunset provision in the current Act. The proposed changes would eliminate the requirement that social work programs be accredited by the Council on Social Work Education and would give the Board the discretion to approve social work programs. A new section would make the practice of social work without a license unlawful and would assign the crime a misdemeanor penalty. The requirement that the written examination include a section on New Mexico cultures would be removed and the Board would have the authority to determine the qualifications for licensure, including determining a demonstration of “an awareness and knowledge of New Mexico cultures.” Provisions would be established by the act for inactive and retired license statuses. Immunity for civil liability for board members and limited confidentiality for Board communications would be provided when dealing with disciplinary actions.

Significant Issues

The Regulations and Licensing Department (RLD) asserts that the proposed changes to expand educational requirements will allow applicants with a doctoral degree to be eligible for licensure. The Board states that by changing the entity which approves education programs, applicants who have graduated prior to the Council on Social Work Education accrediting programs would be eligible for licensure.

RLD cites that expanding license classifications to include a retired and inactive status would allow licensees not practicing in the state to keep their license in the event they may wish to begin practicing in the State of New Mexico. These individuals would then not be required to re-apply for a license.

According to RLD, the proposed changes would give the board immunity from civil action when an allegation of misconduct is made in good faith which may result in the initiation of disciplinary action against a license holder. The department states that the changes would allow for board written and oral communications, relating to disciplinary action, to be confidential until disciplinary action is taken against a licensee.

According to the Children, Youth and Family Department (CYFD), executive agency employees responsible for child protective services should be exempt from the proposed amendments to the Social Work Examiners Act. The department asserts that the purpose of social work licensure is to provide appropriate public protections by ensuring a particular level of oversight and standards over those practicing social work. CYFD states that safeguards exist within the child protective services system to provide a level of public protection higher than that of licensure. The department describes that individual child and family cases are monitored regularly by entities outside of CYFD, including: the children's court judge, citizen review boards, court appointed special advocates (CASAs) and the federal Department of Health and Human Services. According to CYFD, there are multiple layers of oversight within the department, institutionalized within the management structure and codified into policies and procedures. The department cites that compliance with policies and procedures and national child welfare standards is monitored through a quality assurance program. According to CYFD, child protective service workers are provided with extensive initial and ongoing professional training. CYFD asserts that exempting State agency employees from social work licensure is a common practice and points to the states of Rhode Island, Ohio, Missouri, Louisiana, and Hawaii and Section 61-9-16(A)(1) NMSA 1978 exempting state employees from the Professional Psychologist Act in New Mexico.

CYFD states that requiring a social work license for child protective service employees diminishes the ability of the department to protect children by reducing the pool of qualified applicants for vacant positions. According to the department, positions that require a social work license have been advertised multiple times in several offices and remain vacant due to a lack of applicants, despite aggressive recruitment strategies and offering recruitment differentials in areas where there has been a history of vacancies and/or lack of applicants. CYFD cites recent examples including Tucumcari (vacant since 9-15-04), Gallup (vacant since 11-6-04), Albuquerque (vacant since 8-14-04), Raton (vacant since 6-19-04), Carlsbad (vacant since 10-8-04), Hobbs (2 positions, vacant since 9-17-04 and 12-4-04), Los Lunas (4 positions vacant since 7-30-04, 4-24-04, 11-20-04 and 1-15-05), and Roswell (2 positions vacant since 8-20-04 and 9-11-04). The department cites the following offices as having a 28% or higher vacancy rate at some time during 2004: Taos, Socorro, Hobbs, Tucumcari, Raton/Clayton, Truth or Consequences, Gallup,

Espanola, and Los Lunas. According to CYFD, County Office Managers have identified numerous individuals, capable and qualified to perform social work, who cannot be considered because they do not have a social work license. The Department asserts that as of December 30, 2004, the statewide social worker vacancy rate, including Bernalillo County (Albuquerque) was 14.9%, and the statewide social worker vacancy rate excluding Bernalillo County (Albuquerque) was 16.1%.

According to CYFD, New Mexico Citizen Review Boards have recommended changing the hiring requirements for treatment social workers to “allow for related degrees (not just a social work degree) to increase the applicant pool.” Citizen Review Board 2004 Annual Report and Recommendations, page 10.

The department states that the proposed changes in House Bill 315 would eliminate the use of accreditation of social work schools and programs by the Council on Social Work Education and substitute approval of programs by the board. CYFD predicts that barriers to entry into the field of social work could be created by this provision, and the role of accreditation by the Council on Social Work Education would be eliminated.

Under current law, the social work written examination must include a cultural component. The bill eliminates this requirement in favor of a provision giving the Board discretion to determine the qualifications for licensure, “including the requirement to demonstrate an awareness and knowledge of New Mexico cultures.” According to CYFE, this proposed change may be a weakening of the cultural competency requirement, without more information, the department states the proposal is difficult to evaluate.

According to the Corrections Department (CD), creating the misdemeanor, Unlawful Practice of Social Work may increase prison population (if run consecutive to another sentence) and may increase probation/parole caseloads as a result of the new category of crime.

CD predicts that allowing social workers from other states to practice here, may minimally decrease the customary wage paid to social workers in New Mexico and, thereby, in the Corrections Department. The department continues that the reciprocity section, allowing social workers to practice without passing NM Board written exam, may allow unqualified social workers into the system.

PERFORMANCE IMPLICATIONS

According to CYFD, the inability to hire appropriately qualified but unlicensed employees, who can be trained and supervised by CYFD, could negatively impact CYFD’s ability to fill vacancies and achieve performance measure targets for protective services relating to the protection of children.

According to the Department of Human Services (HSD), there may be a slight increase in Licensed Bachelor of Social Work, Licensed Master of Social Work and Licensed Independent Social Worker providers, as educational requirements are eased slightly.

FISCAL IMPLICATIONS

There is not an appropriation included in House Bill 315.

CYFD relates that enacting House Bill 315 without the exemption of child protective services staff may have an adverse effect on future federal funding. Since enactment of ASFA in 1997, the department asserts, funding for foster children and other federal child protective services is contingent upon state compliance with stringent national standards. CYFD cites staff vacancies as a significant obstacle to meeting the federal standards. CYFD asserts that the state will undergo its next intensive federal review in 2006 and that the current level of annual federal funding for foster care and child protection is approximately \$52 million.

HSD reports that a small increase in the number of social workers licensed could impact Medicaid fiscally, although it would be a small impact and would be difficult to calculate at this time and could be immeasurable.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 270 is related, but not equivalent, to House Bill 315.

House Bill 306, if passed, will extend the life of the Social Workers Examiners Board and will set a new sunset date for the board.

ALTERNATIVES

CYFD suggests amending Section 61-31—4 and section 61-31-4.1 to include the following provision: “Employees of the Children, Youth, and Families Department working in child protective services are exempt from licensure under the Social Work Practice Act.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The current minimal standards remain in effect. The Board will be continued under the sunset act if House Bill 306 is enacted.

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